

CITY OF LINCOLN/LANCASTER COUNTY

CONTRACT AWARD NOTIFICATION
UNL #8807
ANNUAL REQUIREMENTS FOR
FOOD SERVICES AND RELATED ITEMS FOR
LINCOLN AREA AGENCY ON AGING

DATE: June 10, 2005

CONTRACT PERIOD: Aug.1, 2005 thru July 31, 2006

CONTRACTOR: Pegler-Sysco Food Services Co.
1700 Center Park Road
Lincoln, NE 68512

PURCHASING DIVISION
K-STREET COMPLEX
440 SOUTH 8TH STREET
LINCOLN, NEBRASKA 68508
(402) 441-7410

Company Representative: Gary Rezac
Telephone No.: 402/421-5327
FAX No.: 402/421-5335
E-Mail Address: jturner@pegler.sysco.com

THE CITY/COUNTY'S SPECIFICATIONS AND THE CONTRACTOR'S ACCEPTED PROPOSAL AND PRICING SCHEDULES, NOW ON FILE IN THE OFFICE OF THE CITY CLERK AND/OR THE COUNTY CLERK, ARE ADOPTED BY REFERENCE AND ARE AS FULLY A PART OF THIS CONTRACT FOR THE ABOVE-NAMED COMMODITY AS IF REPEATED VERBATIM HEREIN.

PER RENEWAL OF ATTACHED CONTRACT DOCUMENTS AND
INTERGOVERNMENTAL COOPERATIVE PURCHASING WITH UNIVERSITY OF
NEBRASKA AT LINCOLN CONTRACT INVITATION NO. 8807

NO ACTION NEED BE TAKEN BY THE CONTRACTOR AT THIS TIME. ORDERS FOR MATERIAL WILL BE MADE AS NEEDED BY THE VARIOUS CITY/COUNTY DEPARTMENTS.

DEPARTMENTS REQUIRING CATALOGS AND/OR PRICING SCHEDULES SHALL NOTIFY THE CONTRACTOR DIRECTLY.

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**CITY OF LINCOLN, NEBRASKA
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into this ____ day of _____, 2000, by and between Pegler-SYSCO Food Services Co., 1700 Center Park Road, Lincoln, NE 68512 hereinafter called contractor, and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called the City.

WITNESS, that:

WHEREAS, the City through local inter-governmental cooperative purchasing has chosen to participate in the *University of Nebraska at Lincoln's contract resulting from (UNL) bid specification #8807* which was prepared, in accordance with the University's usual and customary laws, procedures and policies, and has approved and adopted said documents connected with said Work, to-wit:

for all labor, material and equipment necessary to provide and deliver food products and related items to/for the Lincoln Area Agency on Aging, located at 1005 "O" Street, Lincoln, NE in compliance with the prices as established via the UNL #8807
and,

WHEREAS, the Contractor, in response to our request to participate in said agreement, has submitted to the City of Lincoln, Nebraska, an offer approving our participation under the same pricing structure, terms and conditions as the University of Nebraska (with only those exceptions stated herein); and,

WHEREAS, the University of Nebraska, in the manner usual and customary to their laws, policies and procedures has opened, read, examined, and canvassed the Proposals submitted in response to the proposal request, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the City have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities necessary to provide and deliver food products and related items to/for the Annual Requirements for the City of Lincoln Area Agency on Aging.
2. TERM OF THE AGREEMENT: The initial term of this agreement is for a period of one (1) year, as twelve (12) consecutive months **beginning August 1, 2000 through July 31, 2001.**
 - 2.1 Upon conclusion of the initial year, the contract may be renewed on a yearly basis with mutual agreement by both parties for additional one-year terms.
 - 2.2 If renewal of the contract for the additional term is not desirable by either one of the parties, that party shall give written notice to the other of its intent to terminate the contract by not less than thirty (30) days prior to the expiration of the initial agreement period.
 - 2.3 Any renewal of the contract will be under the same terms and conditions as the original agreement.
3. PRICING of items will be based on a cost plus markup as per the pricing/markup schedule provided in the original proposal submitted by Pegler-SYSCO Food Services Co., to the University of Nebraska, dated May 1, 2000 (see attached copy of proposal for specification #8807).
 - 3.1 Terms of payment shall be net thirty (30) days for all merchandise meeting City Specifications and approval.
4. INDEPENDENT CONTRACTOR: It is agreed that the contractor shall not be considered an employee of the City for any purpose, but shall be an independent contractor for all purposes and in all situations.
 - 4.1 As an independent contractor, the contractor shall be responsible for all required reporting of income and payments of taxes required by the Federal, State, or Local statutes including, but not limited to: payments required under the Federal Insurance Contributions Act, income tax withholding and periodic payment of estimated taxes, and payments required under Federal Unemployment Tax Act, and any applicable State and Local sales, use or income tax.
 - 4.2 Each party shall be responsible for its own negligence and the negligence of its employees.
5. TERMINATION PROVISIONS: The City shall have the right to terminate this contract upon twenty (20) days written notice to the Contractor, if the Contractor:
 - 5.1 Refuses or fails to supply enough properly skilled staff to satisfactorily provide complete acceptable services as requested by the City.

- 5.2 Disregards laws, ordinances, or regulations or orders of public authority having jurisdiction over the Contract.
- 5.3 Otherwise commits a substantial breach of any provision of the Contract Documents.
 - 5.3.1 Twenty (20) days after the receipt of such notice, the contract shall automatically terminate without further obligation of the parties, except the Contractor shall be paid on the basis of percentage of completion of the work performed hereunder (applies to 5.1, 5.2 and 5.3).
 - 5.3.2 The City may, at its discretion, contract for provision of the services required to complete the contract and hold the Contractor liable for all expenses incurred in such additional contract over and above the total cost of performance set forth in the contract (applies to 5.1, 5.2 and 5.3).
- 5.4 *By mutual consent by both parties of the contract agreement* upon receipt and acceptance of written notice, the contract may be terminated on an agreed upon date, prior to the end of the contract period, without penalty to either party.
 - 5.4.1 Upon any such termination, the Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof, and as the sole right and remedy of the Contractor, the City shall pay the Contractor in accordance with this section.
6. WAIVER OF PROPRIETARY BEVERAGE CLAUSE: The "Exceptions Clause", on page 5, section 1.1, of the UNL specification is applicable only to the University of Nebraska, Lincoln, Nebraska.
 - 6.1 The contractor will be able to furnish special order items or "kindred" (food service related items) on an as-needed basis, using similar price structure to the contract items, to the Lincoln Area Agency on Aging or any other City/County Department/Agency who makes arrangement with the Contractor to participate in the agreed upon contract herein.
7. DELIVERIES will be made a minimum of three (3) times per week to the 10th and "O" street location, in a mutually agreeable fashion, and not to supersede the delivery schedule set forth in the UNL agreement.
8. BONDING: The performance bond, set forth in the original UNL agreement is applicable to only the University of Nebraska, Lincoln, Nebraska.
9. INSURANCE: The City will require an insurance certificate with the following coverage and terms:

directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

- A. Bodily Injury and Property Damage \$2,000,000 each Occurrence
- B. Personal Injury Damage 1,000,000 each Occurrence
- C. Contractual Liability 1,000,000 each Occurrence
- D. Product Liability & Completed Operations 1,000,000 each Occurrence

2. The General Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:

- (a) The coverage shall be provided under a Commercial General Liability form or similar thereto.
- (b) X.C.U. Coverage - if the contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include Standard Blasting or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.
- (c) The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
- (d) Contractual Liability coverage shall be included.
- (e) Products Liability and/or Completed Operations coverage shall be included.
- (f) Personal Injury Liability coverage shall be included.

7C. Automobile Liability Insurance

The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from bodily injury, including wrongful death, and property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage \$1,000,000 Combined Single Limit

7D. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City of Lincoln.

7E. Certificate of Insurance

All certificates of insurance shall be filed with the City of Lincoln on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by the preceding Sections A, B, C, D, and showing the City of Lincoln as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days, notice of cancellation, non-renewal or any material reduction of insurance coverage.

These Contract Agreements, together with the other Contract Documents hereinabove mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

Scott M. Mahan
City Clerk

CITY OF LINCOLN, NEBRASKA

Don Weedy
Mayor 60410

Approved by Executive order No. _____
dated 8/3/00

EXECUTION BY CONTRACTOR

IF A CORPORATION:

PEGLER-SYSCO FOOD SERVICES CO.

Name of Corporation

1700 Center Park Road, Lincoln, NE 6851

Address

ATTEST:

Wesley Bray (SEAL)
Secretary

By: *Sam L. Hagan*
Duly Authorized Official

President
Legal Title of Office